



## WINNEMUCCA INDIAN COLONY

**Council:**

Judy Rojo

Shannon Evans

Merlene Magiera

Eric Magiera

Misty Morning Dawn Rojo-Alvarez

RESOLUTION NO: 2021-02-007

### RESOLUTION OF THE COLONY COUNCIL OF THE WINNEMUCCA INDIAN COLONY

(To Adopt a Revised Title 5 Criminal Code and Traffic Code)

**WHEREAS;** the Winnemucca Indian Colony is organized under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat.984) as amended; and

**WHEREAS;** the Winnemucca Colony Council is the governing body of the Winnemucca Indian Colony as set forth in the Tribal Constitution and Bylaws, Article III, Section 1; and

**WHEREAS;** the Winnemucca Indian Colony Council determined that the Criminal Code and Traffic Code of Title 5 presently adopted was first adopted sometime in the 1970's and needs to be updated;

**WHEREAS;** the Colony Council intends to have its own Tribal Court and its own police force within the year 2021,

**NOW, THEREFORE BE IT RESOLVED;** that the Winnemucca Indian Colony hereby adopts the Title 5 revisions attached to this Resolution that will replace the present Title 5 in its entirety and be effective on the date of its adoption; and

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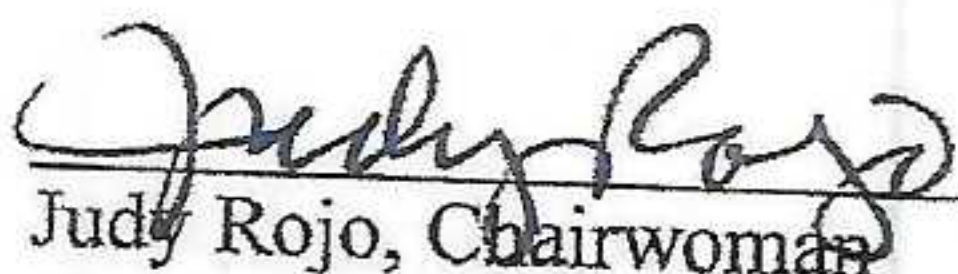
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**BE IT FUTHER RESOLVED;** that the revisions to the Law & Order Code of the Winnemucca Indian Colony and those Titles still effective will be bound in a notebook and distributed to each Council member, General Counsel, Tribal Judge (2 copies), Administration, Police Officer (2 copies) and placed by electronic means on the newly revised website of the Winnemucca Indian Colony.

**C-E-R-T-I-F-I-C-A-T-I-O-N**

It is hereby certified that the Winnemucca Indian Colony Council is the governing body of the Winnemucca Indian Colony and is composed of five members of whom 3, constituting a quorum were present at a Special Meeting on the 14<sup>th</sup> day of February, 2021, and the foregoing resolution was adopted by an affirmative vote of 5 for, 0 against, and 0 abstentions.

**NEWE SOGOBI' TDOS-A-WEE**



Judy Rojo, Chairwoman

WINNEMUCCA INDIAN COLONY





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Judy Rojo, Chairwoman

WINNEMUCCA INDIAN COLONY



## Title 5

### CRIMINAL OFFENSES

#### Section 1. Offenses against the person.

Sec. 5-010-001 Maximum Fines and Sentences of Imprisonment A person convicted of any Criminal Offense found in Chapter I may be sentenced as follows: Type of Offense Maximum Allowable Sentence

(A) Felony Up to three (3) years in prison, or a fine of up to \$15,000, or both, if the defendant has been previously convicted of the same or a comparable offense by a jurisdiction in the United States; or is being prosecuted for an offense comparable to an offense that would be punishable by more than one (1) year of imprisonment if prosecuted by the United States or any of the States. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b)(1) or (2) and 1304.

(B) Class A Misdemeanor Up to one (1) year in prison, or a fine of up to \$5,000.00, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.

(C) Class B Misdemeanor Up to six (6) months in prison, or a fine of up to \$2,500, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.



(D) Class C Misdemeanor Unless stated in the specific violation, up to three (3) months in prison, or a fine of up to \$1,000, or both. The authority to impose such a sentence is found in 25 U.S.C. §§ 1302(b) and 1304.

#### Sec. 5-010-002. Assault

(A) A person commits the offense of assault if said person: (1) With the intent to commit any felony listed in 18 U.S.C. § 1153(a), assaults another person by striking; or (2) With the intent to do bodily injury, assaults another person with a dangerous weapon; (3) With the intent to do bodily harm, assaults by striking a spouse, intimate partner, a dating partner; or (4) Knowingly or recklessly causes bodily injury to another person by striking; or (5) Knowingly or recklessly strikes another person without causing bodily injury; or

(B) As used in this Section: (1) "Striking" shall mean any act of making bodily contact with the person of another including, but not limited to, hitting, beating, wounding, strangling or suffocating. (2) "Bodily injury" means a cut, abrasion, bruise, burn, disfigurement, physical pain, impairment or the function of a bodily member or organ, or any other injury to the body, no matter how temporary. (3) "Dangerous weapon" shall mean an instrument capable of inflicting death or serious bodily injury.



(C) Assault is a felony if committed in violation of paragraph (A)(1), (2) and (3) of this Section. Assault is a Class A misdemeanor if committed in violation of paragraph (A)(4) of this Section. Assault is a Class B misdemeanor if committed in violation of paragraph (A)(5) of this Section. If a defendant has been previously convicted of a violation of paragraphs (A)(4), (A)(5), or (A)(6) or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

#### Sec. 5-010-003 Reckless Endangerment

(A) A person commits the offense of reckless endangerment by recklessly engaging in conduct which places or may place another person in danger of death or serious bodily injury.

(B) Recklessness and danger shall be presumed where a person knowingly points a firearm at or in the direction of another person, whether or not the actor believed the firearm to be loaded.

(C) Reckless endangerment is a Class A misdemeanor. If a defendant has been previously convicted of Reckless Endangerment or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

#### Sec. 5-010-004 Terroristic Threats



(A) A person commits the offense of terroristic threats by threatening to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation, or otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such terror or inconvenience.

(B) Terroristic threats is a Class B misdemeanor.

#### Sec. 5-010-005. Unlawful Restraint

(A) A person commits the offense of unlawful restraint by knowingly: (1) Restraining another unlawfully in circumstances exposing the other person to risk of serious bodily injury; or (2) Holds another in a condition of involuntary servitude.

(B) "Serious bodily injury" shall mean bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a body member, organ or mental faculty.

(C) Unlawful restraint is a Class A misdemeanor. If a defendant has been previously convicted of unlawful restraint or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.



#### Sec. 5-010-006. False Imprisonment

(A) A person commits the offense of false imprisonment by knowingly restraining another unlawfully so as to interfere substantially with the other person's liberty.

(B) False imprisonment is a Class B misdemeanor.

#### Sec. 5-010-007. Interference with Custody

(A) A person commits the offense of interference with custody by knowingly or recklessly taking or enticing any child under the age of eighteen (18) years from the custody of the child's parent, guardian or other lawful custodian, when the person has no privilege or legal right to do so.

(B) A person commits the offense of interference with custody of a committed person by knowingly or recklessly taking or enticing any committed person away from lawful custody when the person does not have the privilege or legal right to do so.

(C) "Committed person" shall mean, in addition to anyone committed under judicial warrant, any orphan, neglected or delinquent child, mentally defective or insane person, or other dependent or incompetent person entrusted to another's custody by or through a recognized social agency or otherwise by authority of law.



(D) Interference with either the custody of a child or committed person is a Class A misdemeanor.

Sec. 5-010-008 Enticing a Child. A person commits the offense of enticing a child if, with the intent to interfere with the lawful custody of a child younger than eighteen (18) years, he knowingly entices, persuades, or takes the child from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such child.

Sec. 5-010-009. Criminal Coercion

(A) A person commits the offense of criminal coercion by, with purpose to unlawfully restrict another's freedom of action to the other person's detriment, threatens to: (1) Commit any criminal offense; or (2) Accuse anyone of a criminal offense; or (3) Take or withhold action as an official, or cause an official to take or withhold action.

(B) Criminal coercion is a Class A misdemeanor. If a defendant has been previously convicted of interference with criminal coercion, or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 5-010-010. Sexual Assault

(A) A person commits the offense of sexual assault by having sexual contact with another person, if: (1) Said person knows that the conduct is



offensive to the other person; or (2) Said person knows that the other person suffers from a mental disease or defect which renders the other person incapable of appraising the nature or the other person's conduct; or (3) Said person knows that the other person is unaware that a sexual act is being committed; or (4) Said person has substantially impaired the other person's power to appraise or control the other person's conduct, by administering or employing without the other's knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or (5) The other person is less than seventeen (17) years old and the actor is at least three (3) years older than the other person; or (6) The other person is in custody of law or detained in a hospital or other institute and the actor has supervisory or disciplinary authority over the other person.

(B) Sexual contact means any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the defendant for the purpose of arousing or gratifying sexual desire, or for the purpose of abusing, humiliating, harassing, or degrading the victim.

(C) Sexual or intimate parts mean the sexual organ, anus, breast, groin or buttocks of any person.



(D) It is an exception to a violation of (A)(5) of this Section if the sexual contact is consensual and the minor is between the ages of fourteen (14) and seventeen (17) and the defendant is no more than three (3) years older than the minor when the sexual contact occurs.

(E) Sexual assault is a felony.

Sec. 5-010-011. Indecent Exposure.

(A) A person commits the offense of indecent exposure by exposing his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(B) If the other person present is 16 years or older, the violation is a Class B misdemeanor.

(C) If the other person present is 15 years or younger, the violation is a felony.

Sec. 5-010-012. Criminal Mischief.

(A) A person commits the offense of criminal mischief by: 1. Damaging tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means; or 2. Purposely or recklessly tampers with tangible property of another so as to endanger



person or property; or 3. Purposely or recklessly causes another to suffer pecuniary loss by deception or threat.

(B) Criminal mischief is a Class A misdemeanor if the defendant purposely causes pecuniary loss in excess of \$500, or a Class B misdemeanor if defendant purposely or recklessly causes pecuniary loss in excess of \$100. Otherwise, criminal mischief is a Class C misdemeanor. If a defendant has been previously convicted of criminal mischief involving a pecuniary loss in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

#### Offenses against Property and Person

Sec. 5-010-013. Arson.

(A) A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying a building or occupied structure of another. The term "occupied structure" includes but is not limited to a boat, trailer, mobile home, vehicle, building, structure or place adapted for overnight accommodation of persons or for carrying on business, whether or not a person is actually present.

(B) A person is guilty of arson if he starts a fire or causes an explosion with the purpose of destroying or damaging his own property or the property of another.



(C) If there is bodily injury or death caused by the arson, it is a Class A offense.

Sec. 5-010-014. Reckless burning.

(A) A person is guilty of reckless burning if he recklessly starts a fire or causes an explosion that endangers human life or damages the property of another; or having started a fire, whether recklessly or not, and knowing that it is spreading and may endanger the life or property of another, fails to take reasonable measures to put out the fire or make a prompt alarm to the fire department or police or starts a fire when the Council or any local government within one mile of the boundaries of the Colony's lands declares that burning is restricted.

(B) Reckless burning is a Class B offense.

Sec. 5-010-015. Criminal Trespass.

(A) A person commits the offense of criminal trespass if, knowing that said person is not licensed or privileged to do so, said person enters or surreptitiously or openly remains in any building or occupied structure on Colony lands.

(B) A person commits the offense of criminal trespass if, knowing that said person is not licensed or privileged to do so, said person enters or remains in any place as to which notice against trespass is given by: (1) Actual



owner thereof or who unlawfully transfers property of another or any interest therein with the purpose to benefit said person or another not entitled thereto.

(B) Theft is a Class A misdemeanor if the value of the property involved is in excess of \$500, or a Class B misdemeanor if the value of the property is in excess of \$100. Otherwise, theft is a Class C misdemeanor. If a defendant has been previously convicted of theft involving property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 5-010-017. Robbery (A) A person commits the offense of robbery if, in the course of committing theft under Sec. 5-010-016 and with intent to obtain or maintain control of the property, he: (1) Intentionally, knowingly, or recklessly causes bodily injury to another; or (2) Intentionally or knowingly threatens or places another in fear of imminent bodily injury or death. (B) A violation of this section is a Class A misdemeanor.

Sec. 5-010-018. Aggravated Robbery (A) A person commits the offense of aggravated robbery if he commits robbery as defined in Sec. 5-010-017 and he: (1) Causes serious bodily injury to another; (2) Uses or exhibits a deadly weapon; or (a) Causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the



other person is fifty-five (55) years of age or is a vulnerable adult as defined by this Title; (B) An offense under this section is a felony.

#### Sec. 5-010-019. Burglary

(A) A person commits the offense of burglary if, without the effective consent of the owner, the person: (1) Enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or (2) Remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or (3) Enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

(B) For purposes of this section, "enter" means to intrude: (1) Any part of the body; or (2) Any physical object connected with the body. (C) An offense under this section is a felony.

#### Sec. 5-010-020. Burglary of Vehicles.

(A) A person commits the offense of burglary of vehicles if, without the effective consent of the owner, he breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft.

(B) For purposes of this section, "enter" means to introduce: (1) Any part of the body; or (2) Any physical object connected with the body.

(C) A violation of this section is a Class B misdemeanor.



Sec. 5-010-021. Receiving Stolen Property.

(A) A person commits the offense of receiving stolen property by purposely receiving, retaining, or disposing of property of another knowing that it has been stolen, or believing that it has probably been stolen. It is an exception if the property is received, retained, or disposed with purpose to restore it to the owner.

(B) Receiving means acquiring possession, control or title, or lending on the security of the property.

(C) Receiving stolen property is a Class A misdemeanor if the value of the property involved is in excess of \$500, or a Class B misdemeanor if the value of the property involved is in excess of \$100. Otherwise, theft is a Class C misdemeanor. If defendant has been previously convicted of receiving stolen property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 5-010-022. Embezzlement.

(A) A person commits the offense of embezzlement by having lawful custody of property not said person's own, appropriates the property to said person's own use, with intent to deprive the owner thereof.



(B) If the actor is a public official, acting within their official capacity, violation of subsection (A) is a felony.

(C) Embezzlement is a Class A misdemeanor if the value of the property involved is in excess of \$500 or is tribal funds in any value. Embezzlement is a Class B misdemeanor if the value of the property is in excess of \$100. Otherwise, embezzlement is a Class C misdemeanor. If a defendant has been previously convicted of embezzlement involving either property in excess of \$500 or tribal funds or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

#### Sec. 5-010-023. Fraud.

(A) A person commits the offense of fraud by willful misrepresentation or deceit, or by false interpreting, or by the use of false weights or measures obtains any money or other property.

(B) Fraud is a Class A misdemeanor if the value of the property involved is in excess of \$500, or a Class B misdemeanor if the value of the property involved is in excess of \$100. Otherwise, theft is a Class C misdemeanor. If a defendant has been previously convicted of theft involving property valued in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.



Sec. 5-010-024. Forgery.

(A) A person commits the offense of forgery by, with purpose to defraud or injure anyone, or with knowledge that said person is facilitating fraud or injury to be perpetrated by anyone, said person: (1) Alters, makes, completes, authenticates, issues or transfers any writing of another without the other's authority; or (2) Utters any writing which said person knows to be forged in a manner above specified.

(B) "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification whether through paper or the like or electronic media

(C) Forgery is a felony if committed by a public official acting in their official capacity. Forgery is a Class A misdemeanor if the forged writing purports to be an official tribal document or is presented to any tribal department or Court. Otherwise, forgery is a Class B misdemeanor. If a defendant has been previously convicted of forgery involving a forged writing purporting to be an official tribal document or which was presented to a tribal department or Court or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.



Sec. 5-010-025 Extortion.

(A) A person commits the offense of extortion by willfully making false charges against another person or by any other means whatsoever, extorts or attempts to extort any monies, goods, property, or anything else of any value from another.

(B) Extortion is a felony if committed by a public official acting in their official capacity. Extortion is a Class A misdemeanor if the value of the money, goods, property or item involved is in excess of \$500, or a Class B misdemeanor if the value of money, goods, property or item involved is in excess of \$100. Otherwise, extortion is a Class C misdemeanor. If a defendant has been previously convicted of extortion involving money, goods, property or item valued in excess of \$500 or a comparable offense in excess of \$500 or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec.5-010-026 Unauthorized Use Of Automobiles And Other Vehicles.

(A) A person commits the offense of unauthorized use of automobiles and other vehicles by operating another person's automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle without consent of the owner.



communication to the actor; or (2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or (3) Fencing or other enclosure manifestly designed to exclude intruders.

(C) A person commits the offense of criminal trespass whenever he approaches a governmental official, employee, contractor or utility personnel with the intent and actually engages in harassment or interference with that official's duties or work on the Colony's lands.

(D) An offense under paragraph (A) of this Section constitutes a Class A misdemeanor if it is committed at night. Otherwise, it is a Class B misdemeanor. An offense under paragraph (B) of this Section is a Class B misdemeanor if the offender defies an order to leave personally communicated to the offender by the owner of the premises or other authorized person. Otherwise, it is a Class C misdemeanor. If a defendant has been previously convicted of a violation of paragraph (A) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec.5-010-016. Theft.

(A) A person who, without permission of the owner, commits the offense of theft by possessing or exercising unlawful control over property not said person's own or under said person's control with the purpose to deprive the



(B) It is an affirmative defense to prosecution under this section that the actor reasonably believed that the owner had previously consented to the operation.

(C) Unauthorized use of an automobile or other vehicle is a Class B misdemeanor.

#### Sec. 5-010-026 Tampering with Records.

(A) A person commits the offense of tampering with records by, knowing that said person has no privilege to do so, said person falsifies, destroys, removes or conceals any writing or record including a writing or recording that is contained on electronic media, with purpose to deceive or injure anyone or to conceal any wrongdoing.

(B) Tampering with records by a Tribal official acting in their official capacity is a felony. Otherwise, tampering with records is a Class B misdemeanor.

#### Sec. 5-010-027 Bad Checks.

(A) A person commits the offense of bad checks by issuing or passing a check or similar sight order either on paper or other hard medium or by electronic media for the payment of money, knowing that it will not be honored by the drawee.

(B) For the purposes of this section, an issuer is presumed to know that the check or order would not be honored, if: (1) The issuer had no account with



the drawee at the time the check or order was issued; or (2) Payment was refused by the drawee for lack of funds, on presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. (C) Issuing bad checks is a Class C misdemeanor.

Sec. 5-010-028. Unauthorized Use of Credit Cards.

(A) A person commits the offense of unauthorized use of credit cards by using a credit card for the purpose of obtaining property or services with knowledge that: (1) The card is stolen or forged; or (2) The card has been revoked or cancelled; or (3) For any other reason said person's use of the card is unauthorized by the issuer.

(B) "Credit card" shall mean a writing or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(C) Unauthorized use of a credit card is a Class C misdemeanor.

Sec. 5-010-029. Defrauding Secured Creditors.

(A) A person commits the offense of defrauding secured creditors by destroying, concealing, encumbering, transferring or otherwise dealing with property subject to a security interest with purpose to hinder that interest.

(B) Defrauding secured creditors is a Class C misdemeanor.



## Protection of Persons

### Sec. 5-010-030. Neglect of Children.

(A) A person commits the offense of neglect of children if: (1) A parent, guardian, or other person supervising the welfare of a child under eighteen (18) knowingly endangers the child's welfare by violating a duty of care, protection or support. (2) A parent, guardian, or other person supervising the welfare of a child under eighteen (18) neglects or refuses to send the child to school.

(B) Neglect of children in violation of paragraph (A)(1) of this Section is a Class A misdemeanor. Neglect of children in violation of paragraph (A)(2) of this Section is a Class B misdemeanor. If a defendant has been previously convicted of a violation of paragraph (A)(1) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

### Sec. 5-010-031. Domestic Violence.

(A) A person commits the offense of domestic violence by inflicting physical harm, strangulation, bodily injury, or sexual assault, or inflicting the fear of imminent physical harm, bodily injury, or sexual assault on a family member.



(B) For purposes of this section, a family member is any of the following:

(1) A spouse; (2) A former spouse; (3) A person related by blood; (4) A person related by existing or prior marriage; (5) A person who resides or resided with the defendant; (6) A person with whom the defendant has a child in common; (7) A person with whom the defendant is or was in a dating or intimate relationship.

(C) "Sexual Assault" means the sexual exploitation, forcible penetration, or an act of sexual contact on the body of another person, male or female, without his or her consent.

(D) "Strangulation" means intentionally and knowingly or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(E) If the defendant inflicts actual physical harm, bodily injury or sexual assault on the victim, then domestic violence is a felony. If there is no actual physical harm, bodily injury or sexual assault on the victim, then domestic violence is a Class A misdemeanor, except where the defendant has been previously convicted of domestic violence or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.



Sec.5-010-032 Interference with Emergency Telephone.

(A) A person commits the offense of interference with emergency telephone if the said person knowingly prevents or interferes with another individual's ability to place an emergency telephone call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide of the safety of individuals.

(B) A violation of this section includes any phone call reporting a false emergency when the caller knows that an emergency does not exist for him to report.

Sec. 5-010-033. Child or Vulnerable Adult Abuse.

(A) A person commits the offense of child or vulnerable adult abuse by: (1) Intentionally or knowingly causing a child or vulnerable adult to suffer physical injury; or (2) Having the care or custody of a child or vulnerable adult, causes or permits the person or health of the child or vulnerable adult to suffer physical injury or who causes or permits a child or vulnerable adult to be placed in a situation where the person or health of the child or vulnerable adult is endangered.



(B) For the purposes of this Section, “abuse” shall mean intentional infliction of physical harm, injury caused by negligent acts or omissions, unlawful imprisonment, sexual abuse, or sexual assault.

(C) “Child” shall mean an individual who is under eighteen years of age.

(D) “Physical injury” shall mean the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

(E) “Vulnerable adult” shall mean an individual who is eighteen (18) years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.

(F) “Endanger” shall mean placing a child or vulnerable adult in a potentially harmful situation, either through intentional actions or negligence.

(G) Child or vulnerable adult abuse is a Class A misdemeanor. If a defendant has been previously convicted of child or vulnerable adult abuse or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.



Sec. 5-010-034. Failure to Report Child or Vulnerable Adult Abuse or Neglect.

(A) Any person having cause to suspect that either an individual as defined in Section 5-010-033 (C), (E) or elderly, defined as fifty-five (55) years of age or older, has been abused or neglected shall immediately report the suspected abuse or neglect to either the Tribal Police Department or other valid social services agency within the jurisdiction of the Winnemucca Indian Colony.

(B) Any person who in good faith makes a report pursuant to this Section or who testifies in any judicial proceeding arising from such report shall be immune from any civil or criminal liability because of such report or testimony.

(C) In addition to the obligation to report suspected abuse or neglect of a child or vulnerable adult, a professional shall also have an obligation to report any reasonable suspicion that a child or vulnerable adult may be abused or neglected in the future. A professional may not delegate to or rely on another person to make the report.

(D) "Professional" shall mean any of the following persons: (1) Physician; (2) Nurse; (3) Dentist; (4) Optometrist; (5) Any other medical worker; (6) Any mental health professional; (7) School principal; (8) School teacher; (9)



Other school official; (10) Social worker; (11) Head Start worker; (12) Child day care worker; (13) Recreational worker; (14) Youth Programs; (15) Law Enforcement official or peace officer; (16) Judge; (17) Court staff; (18) Peacemaker if one has been so designated and is serving in that capacity with the Winnemucca Indian Colony; and (19) Attorneys, but only when doing so does not violate the attorney-client privilege.

(E) Failure to report suspected abuse or neglect of a child or a vulnerable adult is a Class B misdemeanor. The failure of a professional to make a report under paragraphs (A) or (C) of this Section is a Class A misdemeanor. If a defendant is a professional and has been previously convicted of a violation of paragraphs (A) or (C) of this Section or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 5-010-032. Persistent Non-Support (A) A person commits the offense of persistent non-support by persistently failing to provide support which said person can provide and which said person knows said person is legally obligated by an Order of the Tribal Court, or other Court but is within the jurisdiction of the Winnemucca Indian Colony, to provide to a spouse, child or other dependent. (B) Persistent non-support is a Class B misdemeanor. If a defendant has been previously convicted of persistent



non-support or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony. (C)

Sec. 5-010-033. Bribery (A) A person commits the offense of bribery by offering, conferring, or agreeing to confer upon another, or solicits, accepts or agrees to accept from another any of the following: (1) Any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant of the Tribe or voter; or (2) Any benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; (3) Any benefit as consideration for a violation of a known legal duty as a public servant of the Tribe. (B) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the other person had not yet assumed office, or lacked jurisdiction, or for any other reason. (C) Bribery in violation of paragraph (1) or (2) of this Section is a Class B misdemeanor. Bribery in violation of paragraph (3) of this Section is a Class A misdemeanor. If a defendant has been previously convicted of bribery or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.



Protection of the Government and its elected and appointed officials.

Sec. 5-010-036. Threats and Other Improper Influence in Official or Political Matters.

(A) A person commits the offense of threats and other improper influence in official or political matters by: (1) Threatening unlawful harm to any person with purpose to influence the other person's decision, vote or other exercise of discretion as a elected or appointed position of the Winnemucca Indian Colony or voter; or (2) Threatening harm to any Colony elected or appointed official with purpose to influence the official's decision, opinion, recommendation, vote or other exercise of discretion in a judicial or administrative proceeding; or (3) Threatening harm to any elected or appointed official with purpose to influence the official's decision, opinion, recommendation, vote or other exercise of discretion in a judicial or administrative proceeding.

(B) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way, whether because the other person had not yet assumed office, lacked jurisdiction, or for any other reason.

(C) Threatening and other improper influence toward an official, elected or appointed, is a Class A misdemeanor. If a defendant has been previously



convicted of threats and other improper influence in official matters or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

5-010-037. Retaliation for Past Official Action.

(A) A person commits the offense of retaliation for past official action by harming another by any unlawful act in retaliation for anything lawfully done by the latter in the capacity of an elected or appointed official of the Colony.

(B) Retaliation for past official action is a Class A misdemeanor. If a defendant has been previously convicted of retaliation for past official action or a comparable offense by another jurisdiction in the United States, then a defendant may be charged with a felony.

Sec. 5-010-038. Perjury.

(A) A person commits the offense of perjury by making a false statement under oath or equivalent affirmation to the Council, Court or police officer of the Winnemucca Indian Colony, or swears or affirms the truth of a statement previously made, when the statement is material and said person does not believe it to be true.

(B) No person shall be guilty of an offense under this section if said person retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be



exposed and before the falsification substantially affected the proceeding.

(C) No person shall be convicted of an offense under this section where proof of falsity rests solely on contradiction by testimony of a single person other than the defendant.

(D) Perjury is a Class B misdemeanor.

#### Sec. 5-010-039. False Alarms.

(A) A person commits the offense of false alarms by knowingly causing a false alarm of fire or other emergency to be transmitted to, or within any organization, official or volunteer, for dealing with emergencies involving danger to life or property.

(B) False alarm is a Class B misdemeanor.

#### Sec. 5-010-040. False Reporting.

(A) A person commits the offense of false reporting by: (1) Knowingly giving false information to any law enforcement officer with the purpose to implicate another; or (2) Reporting to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or (3) Pretending to furnish such authorities with information relating to an offense or incident when said person knows said person has no information relating to such offense or incident.



(B) False reporting is a Class B misdemeanor. If a defendant has been previously convicted of false reporting or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

Sec. 5-010-041. Impersonating a Colony official whether elected or appointed.

(A) A person commits the offense of impersonating a public official by falsely pretending to hold a position in the public service with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance on that pretense to the other person's prejudice.

(B) Impersonating an official, elected or appointed, is a Class B misdemeanor.

Sec.5-010-042. Disobedience to Lawful Order of Court.

(A) A person commits the offense of disobedience to lawful order of a court by willfully disobeying any order, subpoena, summons, warrant or command duly issued, made or given by either the trial or appellate divisions of the Tribal Court or any officer thereof.

(B) Disobedience to lawful order of a court is a Class C misdemeanor.



Sec. 5-010-043. Resisting Arrest.

(A) A person commits the offense of resisting arrest if, for the purpose of preventing a public servant from effecting a lawful arrest or discharging any other duty, said person creates a substantial risk of bodily injury to the public servant or anyone else, or employs means justifying or requiring substantial force to overcome the resistance.

(B) Resisting arrest is a Class B misdemeanor. If a defendant has been previously convicted of resisting arrest or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

Sec. 5-010-044. Obstructing Justice.

(A) A person commits the offense of obstruction of justice by, when the person knowingly hinders the apprehension, prosecution, conviction or punishment of another for a crime, said person harbors or conceals another person, provides a weapon, transportation, disguise or other means of escape, warns the other of impending discovery, or volunteers false information to a law enforcement officer.

(B) Obstruction of justice is a Class A misdemeanor. If a defendant has been previously convicted of obstruction of justice or a comparable offense



by another jurisdiction in the United States, then the defendant may be charged with a felony.

Sec. 5-010-045. Escape or Evasion.

(A) A person commits the offense of escape if that person intentionally flees from a police officer attempting lawfully to arrest or detain the person.

(B) It is a defense to (A) if the person did not know that the person attempting to arrest him was a police officer and the police officer did not identify himself or make it obvious that the police officer was effecting a lawful arrest. A violation of this subsection is a Class B misdemeanor.

(C) Escape is a Class A misdemeanor if the actor uses a vehicle while the actor is in flight. Escape is a felony if another suffers physical injury as a result of the person's attempt to evade. If a defendant has been previously convicted of escape or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

Sec. 5-010-046. Flight to Avoid Prosecution or Judicial Process.

(A) A person commits the offense of flight to avoid prosecution or judicial process by absenting the territory over which the Tribal Court exercises jurisdiction for the purpose of avoiding arrest, prosecution or other judicial process shall be guilty of a felony.



(B) Flight to avoid prosecution or judicial process is a Class C misdemeanor.

Sec. 5-010-047. Witness Tampering.

(A) A person commits the offense of witness tampering if, believing that an official proceeding or investigation is pending or about to be instituted, said person attempts to induce or otherwise cause a witness or information to:

(1) Testify to inform falsely; or (2) Withhold any testimony, information, document or thing; or (3) Elude legal process summoning the witness to supply evidence; or (4) Absent the witness from any proceeding or investigation to which the witness has been legally summoned.

(B) Witness tampering is a Class A misdemeanor. If a defendant has been previously convicted of witness tampering or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

Sec. 5-010-048. Tampering With or Fabricating Physical Evidence.

(A) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, said person: (1) Alters, destroys, conceals, or removes any record, document or thing whether in hard form or electronic media, with purpose to impair its verity or availability in such proceeding or



investigation; or (2) Makes, presents or uses any record, document or thing in hard form or electronic media, knowing it to be false and with the purpose to mislead a public servant who is or may be engaged in such proceeding or investigation.

(B) Tampering with or fabricating physical evidence is a Class B misdemeanor. If defendant is a official of the Winnemucca Indian Colony, whether elected or appointed, tampering with or fabricating physical evidence is a felony.

#### Miscellaneous offenses

Sec. 5-010-049 Cruelty to Animals.

(A) A person commits the offense of cruelty to animals if said person purposely or recklessly: (1) Subjects any animal in said person's custody to cruel neglect; or (2) Subjects any animal to cruel mistreatment; or (3) Kills or injures any animal belonging to another without legal privilege or consent of the owner; or (4) Causes one animal to fight with another.

(B) Cruelty to animals is a Class B misdemeanor.

Sec. 5-010-050 – Abuse of public office. An official of the Winnemucca Indian Colony abuses public office if the individual intentionally and with knowledge that the act is unlawful: Subjects another to arrest, detention,



search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights;

(B) Abuse of office is a Class A misdemeanor. If a defendant has been previously convicted of abuse of office or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

Offenses against the public:

Sec. 5-010-051. Possession of a Controlled Substance.

(A) A person commits the offense of possession of a controlled substance by knowingly or intentionally possessing any controlled substance listed in 21 CFR Part 1308, as amended, unless: (1) The Controlled Substances Act or Drug Enforcement Agency regulations specifically authorizes possession of the substance or the State of Nevada and the Law & Order Code of the Winnemucca Indian Colony authorizes possession of the substance; (2) The substance or preparation is excluded or exempted by 21 CFR 1308.21 through 1308.35, as amended; or (3) The provisions of 42 U.S.C. 1996a (regarding traditional Indian religious use of peyote, Hopi Tobacco, or other such traditional Indian religious uses) apply.

(B) Possession of a controlled substance is a Class A misdemeanor. If a defendant has been previously convicted of possession of a controlled



substance or a comparable offense by another jurisdiction in the United States, then the defendant may be charged with a felony.

(C) Any controlled substance involved in violation of this section is declared to be contraband. On proof of a violation of this section, the controlled substance must be forfeited to the Federal Government by order of the Tribal court, after public notice and an opportunity for any person claiming an interest in the substance to be heard.

(D) Any personal property titled in the name of the accused offender used to transport, conceal, manufacture, cultivate, or distribute a controlled substance in violation of this section is subject to forfeiture to the Winnemucca Indian Colony by order of the Tribal court on proof of this use, following public notice and opportunity for any person claiming an interest in the property to be heard.

#### Sec. 5-010-052. Contempt of Court.

(A) A person commits the offense of contempt of court, if said person: (1) Intentionally fails to maintain the respect due the Tribal Court; or (2) Intentionally engages in any offensive conduct in the Tribal Court.

(B) Contempt of Court is a Class C misdemeanor.

#### Sec. 5-010-053. Aiding and Abetting.



(A) A person commits the offense of aiding and abetting, if, with the intent to promote or facilitate the act or conduct constituting the commission of the offense, said person aids, abets or advises another person in planning or committing the offense.

(B) A person shall not be convicted of aiding and abetting if the principal offender is not found guilty of the underlying crime.

(C) A person convicted of the offense of aiding and abetting shall be subject to the same sentence as provided for the underlying crime.

Sec. 5-010-054. Conspiracy.

(A) A person commits the offense of criminal conspiracy, if with the intent to promote or facilitate the commission of another offense, said person: (1) agrees with another person or persons that they, or one or more of them, will engage in conduct which constitutes such other offense or an attempt to commit such other offense; or (2) agrees to aid such other person or persons in planning and commission or such other offense or of an attempt to commit such other offense.

(B) Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt, if the other offense would have been committed had the attendant circumstances been as the actor believed them to be.



(C) A person convicted of conspiracy shall be subject to the same punishments that specified for the offense which was the subject of the conspiracy. However, the penalty shall not exceed the maximum specified for the charged offense which was the subject of the conspiracy, whether or not such other offense was committed.

Sec. 5-010-055. Solicitation.

(A) Except for acts of persons authorized by law to investigate the commission of offenses by others, a person commits the offense of solicitation, if said person commands, induces, entreats or otherwise attempts to persuade another person to commit an offense, whether as principal or accomplice, with the intent to promote or facilitate the commission of that crime.

(B) It is no defense to a prosecution under this section that the person solicited could not commit or could not be guilty of the offense because of lack of responsibility, culpability or other incapacity.

(C) A person convicted of solicitation shall be subject to the same punishment as that for the completed offense. However, the penalty for solicitation shall not exceed the maximum specified for the offense which was the subject of the solicitation whether or not the offense was committed.



Sec. 5-010-056. Criminal Attempt.

(A) A person commits the offense of criminal attempt if said person attempts to commit an offense prohibited by law, and in such attempt shall do any act toward the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the offense.

(B) A person convicted of criminal attempt shall be subject up to one-half the maximum period of imprisonment or up to one-half the maximum fine specified for the intended offense, or both.

**CHAPTER 5-020. CRIMINAL VIOLATIONS AFFECTING THE PUBLIC SAFETY.**

Sec. 5-020-001 Malicious Mischief.

(A) A person commits the violation of malicious mischief if said person causes pecuniary loss or damage in an amount under \$1,000.00 by: (1) Damaging tangible property of another purposely, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means; or (2) Purposely or recklessly tampers with tangible property of another so as to endanger person or property; or (3) Purposely or recklessly causes another to suffer pecuniary loss by deception or threat.



(B) A violation of this section may be punishable by up to a \$250.00 civil fine for the first offense or up to \$500.00 for each subsequent offense plus restitution.

Sec. 5-020-002. Simple Assault.

(A) A person commits the violation of simple assault if said person: (1) Knowingly or recklessly makes physical contact with another without their consent.

(B) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.

Sec. 5-020-003. Disorderly Conduct.

(A) A person commits the violation of disorderly conduct if, with purpose to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, said person: (1) Engages in fighting or threatening, or in violent or tumultuous behavior; (2) Makes unreasonable noise or an offensively coarse utterance, gesture or display, or addresses abusive language to any person present or in a public place; (3) Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor; (4) Discharges a firearm on or across a public roadway; or (5) Appears in a public place while intoxicated or with altered consciousness to the degree that the person may endanger the person or another.



(B) Public means affecting or likely to affect persons in a place to which the public has access; among the places included are highways, schools, prisons, apartments, places of business or amusement, or any neighborhood.

(C) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.

Sec. 5-020-004 Petty Theft (A) A person commits the violation of petty theft who, without permission of the owner and the intent to deprive the owner thereof, takes, shoplifts, possesses or exercises unlawful control over property valued under \$50.00. (B) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$250.00 for each subsequent offense.

Sec. 5-020-005. Maintaining a Public Nuisance.

(A) A person commits the violation of maintaining a public nuisance who permits said person's property to fall into such condition as to injure or endanger the safety, health, comfort, or property of said person's neighbors or surrounding community.

(B) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.



(C) The Colony Council may issue a resolution or declaration that a condition of property is a public nuisance and then, the Colony Council may remedy the public nuisance condition by conducting reasonable removal, repair, rehabilitation or demolition of the condition causing the violation. All costs incurred by the Colony in conducting these reasonable removals, repairs, rehabilitations, or demolitions may be chargeable against the maintainer of the Public Nuisance.

(D) Absent an imminent health or safety concern, a person found liable under this section shall have fourteen (14) days after being found liable to abate the public nuisance before the Colony may bring forth another action under this section or before the Colony itself may undertake abatement measures. The fourteen (14) day-time period may be enlarged at the time of judgment if it is deemed by the Court that more than fourteen (14) days is reasonably necessary to abate the public nuisance.

(E) Where an imminent health or safety concern exists, the Court shall take all necessary steps in its discretion to protect the health and safety of the Colony's community residents and members. This includes the discretion to authorize the Colony to immediately conduct reasonable removal, repair, rehabilitation or demolition of the declared public nuisance at the time it finds any person liable for maintaining said nuisance.



The Court or the Council has the authority to mandate that all persons and animals vacate the premises while the removal, repair, rehabilitation or demolition is pending and while the removal, repair, rehabilitation or demolition is accomplished.

Sec. 5-020-006 Littering. A person commits the violation of littering if the person:

(A) Knowingly deposits in any manner litter on any public or private property or in any public or private waters, having no permission to do so; or

(B) Negligently deposits in any manner glass or other dangerously pointed or edged objects on or adjacent to water to which the public has lawful access for bathing, swimming, or fishing, or upon a public highway, or within the right of way thereof; or

(C) Discharges sewage, oil products or litter upon the lands of the Colony; or

(D) Drops or permits to be dropped or thrown upon any roadway any destructive or injurious material and does not immediately remove the same or cause it to be removed.

(E) "Litter" means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris or any



foreign substance of whatever kind and description, and whether or not it has value.

(F) This section shall only apply to litter totaling less than fifteen (15) pounds or thirteen (13) gallons.

(G) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.

(H) The Colony may abate litter by conducting timely reasonable removal of the condition causing the violation. All costs incurred by the Colony in conducting these reasonable removals may be chargeable against the person found to be in violation under this section.

Sec. 5-020-007 Possession of Drug Paraphernalia A person commits the violation of possession of drug paraphernalia if the person:

(A) Knowingly or intentionally uses or possesses with intent to use drug paraphernalia or instruments to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance absent the required permit or license from the tribal, state or federal agency responsible for regulating the controlled substance, or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.



(B) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.

Sec. 5-020-007 Failure to Appear or Pay Fine.

(A) A person commits the violation of failure to appear to pay a fine if said person intentionally or knowingly fails to appear for a Court date after being served with such notice, or willfully disobeys any order, subpoena, summons, warrant or command duly issued, including the timely paying of fines, fees, restitution, or the completion of community service or other ordered requirements of sentencing, made or given by either the trial or appellate divisions of the Winnemucca Indian Colony Tribal Court or any officer thereof;

(B) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense;

(C) The Tribal Court may in its discretion excuse a failure to appear for good cause shown or extend the deadline for payment of fines where the person with good cause shown requests said extension before the payment is due.

Sec. 5-020-008. Prevented Execution of Civil Process.



(A) A person commits the violation of prevention of the execution of civil process by intentionally or knowingly, through words or physical action, preventing the execution of any process in a civil cause.

(B) It is an exception to the application of this section that the actor evaded service of process by avoiding detection.

(C) A violation of this section may be punishable by up to a \$250.00 fine for the first offense or up to \$500.00 for each subsequent offense.

Sec. 5-020-009. Minor in Possession of Alcoholic Beverage.

(A) Except as provided in Subsection (B) of this section, a person under the age of 21 commits the violation of minor in possession of an alcoholic beverage if said person possesses an alcoholic beverage on the lands of the Winnemucca Indian Colony.

(B) A minor may possess an alcoholic beverage: (1) While in the course and scope of the minor's employment if the minor is an employee of a licensee or permittee and the employment and the minor is not consuming the alcohol is not otherwise prohibited by this code; (2) If the minor is in the visible presence of his adult parent, guardian, or spouse, or other adult to whom the minor has been committed by a court; or (3) If the minor is under the immediate supervision of a commissioned peace officer engaged in enforcing the provisions of this code.



(C) Subsection (A) does not apply to a minor who: (1) Requested emergency medical assistance in response to the possible alcohol overdose of the minor or another person; (2) Was the first person to make a request for medical assistance under Subdivision (1); and (3) If the minor requested emergency medical assistance for the possible alcohol overdose of another person: (a) Remained on the scene until the medical assistance arrived; and (b) Cooperated with medical assistance and law enforcement personnel.

(D) A violation of this section may be punishable by up to a \$250.00 fine for the first offense and up to \$500.00 for any subsequent offenses.

Sec. 5-020-010. Minor in Possession of Tobacco Product (A) A person commits the violation of minor in possession of tobacco product by: (1) Possesses, purchases, consumes, or accepts a cigarette or tobacco product when he is under the age of eighteen (18) years; or (2) Falsely represents himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the individual's own age in order to obtain possession of, purchase, or receive a cigarette or tobacco product.

(B) It is an exception to the application of this section that the individual possessed the product in the presence of: (1) An adult parent, a guardian;



or (2) An employer of the individual, if possession or receipt of the product is required in the performance of the employee's duties as an employee and the minor is not using or ingesting the tobacco product.

(C) A violation of this section may be punishable by up to a \$250.00 fine for the first offense and up to \$500.00 for any subsequent offenses.



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